

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

DOREEN SMITH, As Administrator )  
of the Estate of Kenneth C. Smith, ) CASE NO. 1:13-CV-744  
Plaintiff, )  
vs. ) JUDGE SOLOMON OLIVER JR.  
ROGER JONES, )  
Defendant. ) **JOINT PRELIMINARY STATEMENT  
OF THE PARTIES**

On March 10, 2012, in the early morning hours, Kenneth Smith, age 20, was shot and killed by an off-duty police officer, Roger Jones. Subsequently, a lawsuit claiming, under various legal grounds, that Defendant Jones used excessive force in the shooting, and is seeking damages for the alleged wrongdoing was filed on the behalf of the Estate of Kenneth Smith. Defendant Jones has denied the allegations and asserts that the claims and damages should be rejected.

The case arises from a disturbance at a parking lot on East 9<sup>th</sup> Street and Bolivar Road, across from Progressive Field in the City of Cleveland. A fight broke out at Wilbert's Food & Music, a restaurant and music venue, and spilled into the parking lot, located on the northwest corner of East 9<sup>th</sup> Street and Bolivar Road. During the disturbance some people were injured and some shots were fired. During the course of the disturbance, Defendant Jones was off duty. Jones saw a man shooting in the air and then get into the driver's seat of a gold Saturn with the gun in his pocket. He also saw two other men later get into the vehicle. One of those men was Kenneth Smith, who sat in the front passenger seat. Another man sat in the back seat. The vehicle proceeded to leave the parking lot.

Defendant Jones made various calls to a Cleveland Police dispatcher and 911, and subsequently followed the vehicle as it traveled northbound on East 9<sup>th</sup> and stopped at the

intersection of E. 9<sup>th</sup> and Prospect Avenue. Other police vehicles arrived at the scene, and three on-duty officers responded to engage the persons in the vehicle.

At some point, Defendant Jones ran up to the passenger side of the vehicle and engaged Kenneth Smith. What happened at the vehicle is the subject of the dispute in this case. Plaintiff claims Defendant Jones acted unreasonably under the circumstances in shooting Kenneth Smith by using excessive force. Defendant claims he acted reasonably, and that the force used was not excessive under the circumstances.

The court will instruct on the various legal standards to be applied in deciding whether or not the Plaintiff should or should not prevail in this lawsuit.

Respectfully submitted,

FRIEDMAN & GILBERT

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**CERTIFICATE OF SERVICE**

I certify that on August 28, 2015, a copy of this **Joint Preliminary Statement of the Parties** was electronically filed. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

*s/ Alejandro V. Cortes*  
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